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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,481	07/11/2003	Tony Hollingsworth	UNMC.63188	8213
110 7590 07/24/2008 DANN, DORFMAN, HERRELL & SKILLMAN 1601 MARKET STREET SUITE 2400 PHILADELPHIA, PA 19103-2307				
EXAMINER				
YU, MISOOK				
ART UNIT		PAPER NUMBER		
1642				
MAIL DATE		DELIVERY MODE		
07/24/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/618,481

**Applicant(s)**

HOLLINGSWORTH ET AL.

**Examiner**

MISOOK YU

**Art Unit**

1642

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2 and 4-12 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 9-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4 and 7 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

Claims 1, 2, and 4-12 are pending and claims 2 remain withdrawn for reason of record, and new claims 9-12 are also withdrawn because they belong to group II invention as set forth in the Office action mailed on 12/12/2005.

Claims 1, 2, and 4-8 are under consideration.

### *Claim Rejections - 35 USC 102, Maintained*

Claim 1 remain rejected and new claims 4-6 are under 35 USC 10(b) as being anticipated by WO 02/058450.

Applicants argue that claimed invention is peptide consisting of SEQ ID NO: 47, which consists of 30 amino acids, while the peptide of the prior art is 43 amino acids. Applicant also states that the sequences in claim 8 is fragment of SEQ ID NO: 47, and applicant requested the Office to search SEQ ID NOs 47-49 in the remark section in response to the previous Office action of the Office's willing to search up to 10 amino acids, the base claim is still drawn to many other sequences. One of them, which is SEQ ID NO: 24 is identical to the sequence in Fig. 14B of the art of the record.

Pro-Ser-Ser-Thr- Asp-Arg-Ser-Pro- Tyr (SEQ ID NO: 24)
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WO 02/058450

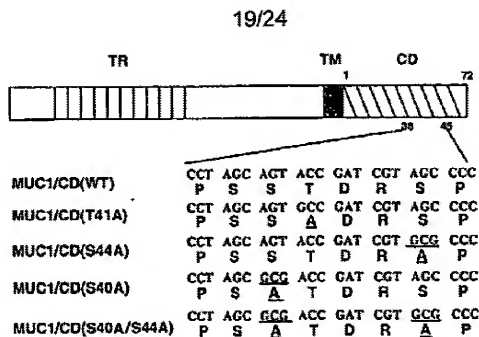


FIG. 14B

Claims 1, 4, 6, and new claims 8 are under 35 USC 10(b) as being anticipated by US Patent 6,548,643, for the reasons set forth previously in the Paper mailed March 17, 2006, Section 7, pages 4-5 for the same reason given above.

SEQ ID NO: 28 of the 643 patent (see below) is identical to SEQ ID NO: 34 of the instant application.

1 5

<200> SEQUENCE CHARACTERISTICS:  
<210> SEQ ID NO 28  
<211> LENGTH: 9  
<212> TYPE: PRT  
<213> ORGANISM: Homo sapiens  
<400> SEQUENCE: 28  
Lys Asn Tyr Gly Gln Leu Asp Ile Phe

***The Following is New Ground of Rejection***

***Double Patenting***

Claims 5 and 6 are objected to under 37 CFR 1.75 as being a substantial duplicate of claim 5. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). Both claims are drawn to peptide consisting of SEQ ID NOs 47-49.

***Conclusion***

Claim 5 is objected to as being dependent upon a rejected base claim.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MISOOK YU whose telephone number is 571-272-0839. The examiner can normally be reached on 8 A.M. to 5:30 P.M., every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms can be reached on 571-272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1642

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MISOOK YU  
Primary Examiner  
Art Unit 1642

/MISOOK YU/  
Primary Examiner, Art Unit 1642